IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5584 OF 2004

Manindar Singh ...Applicant

Versus

M/s. Balkrishna Premnath Gupta and another ...Respondents

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Mr. Firoz Andhyarjun i/b Ms. Pallavi Divekar, Advocate for Applicant.

Mr. Piyush Parikh, Advocate for Respondent No.1.

Mr. D.P. Adsule, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED:30TH JUNE, 2005

P. C.:-

1. Heard both sides.

2. The applicant has prayed for quashing of process issued against him in Criminal Case No. 1252/S of 2003 which is pending in the Court of learned Metropolitan Magistrate, 37th Court at Esplanade, Mumbai. In the said case, process has been issued against the applicant under Section 18 of Negotiable Instruments Act. The applicant had referred an application for recalling of process before the learned Magistrate, however, the said application came to be rejected by the learned Magistrate by

order dated 19.10.2002. Being aggrieved thereby, the applicant has approached this Court.

3. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, the applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicant prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicant to prefer revision before the concerned Sessions Court. The learned counsel for the applicant states that the necessary revision would be filed within a period of three weeks from today. In view of this statement the proceedings before the trial Court are stayed for a period of three weeks from today. All contentions of the applicant are left open including the main contention that the complaint was time barred. The learned counsel for the applicant states that two days advance notice shall be given to the respondent No.1 in respect of filing revision by the applicant before the Sessions Court.

5. On the necessary revision being preferred by the applicant before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Criminal application is disposed of.

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